

**PIJF MEETING HELD AT THE HILTON HOTEL, DURBAN
ON 01 OCTOBER 2004 AT 09:00**

PRESENT

J Jappie
R E Laue
M B Gumede
S Batohi
D Boardman
D J Makhaye
A C Badal
H A Beavon
R Blumrick
J Botma
T A Dlamini
C S Ngcobo
T C Mabaso
D S V Ntshangase
E J Sibeko
C Zwane
P van Rooyen

Judge
Magistrate Durban
KZN Law Society
DPP: KZN
DOJ: Head Office
DCS
Durban Justice Centre
SAPS, KZN
DDPP: KZN
Magistrate Pietermaritzburg
Senior Court Manager: Pietermaritzburg
Chief Magistrate: Pietermaritzburg
Chief Magistrate: Durban
Regional Court President: KZN
Chief Prosecutor: Durban
Magistrate: Durban
Magistrate Durban

1. OPENING REMARKS AND WELCOME

Judge Jappie welcomes everybody and declares the meeting open.

2. APOLOGIES

Director Booysen: SAPS
Commissioner Brown: SAPS
Mary O’Gorman: Family Advocate
S S Manuel: Senior Court Manager: Pietermaritzburg
Commissioner Ntanjana, SAPS
Commissioner Sibiya: Correctional Services

3. ACCEPTING OF MINUTES OF PREVIOUS MEETING

Minutes accepted by all as a true reflection of the proceedings of the previous meeting.

4. ACCEPTING OF AGENDA

Agenda accepted by all present.

5. MATTERS ARISING FROM PREVIOUS MINUTES/ ACTION LIST

5.1 MEMBERS NOT RECEIVING COPIES OF MINUTES

All members are now receiving their copies of the minutes.

5.2 PRE-TRIAL CONFERENCES

Mr Gumede from the KZN Law Society had not been briefed in respect of Pre-Trial Conferences. Judge Jappie suggests that input from the Law Society with regard to this issue will be valuable, especially in view of the proposed amendments to the Criminal Act.

5.4 CCTV LINKAGE

Mr Ntshangase expresses his disappointment with the fact that the CCTV Linkage had not been tested as yet. He informs the meeting that funds have been made available for the project.

Mr Boardman introduces himself to the meeting. He is representing Court Services.

He sensitises the meeting to the fact that the CCTV Linkage failed during 1998, thus the forum needs to take notice of the existence and contents of the Audio Visual Postponement Bill.

A discussion document has been drafted, that needs to be discussed with all the pillars and stake holders. He suggests that a workshop needs to be held as soon as possible to discuss the documents. The matter will be furthered with the assistance of Mr Ntshangase and Mrs van Rooyen.

Mr Batohi enquires if it is envisaged that a pilot will be run in KZN? Mr Boardman agrees that it will be in Durban/ DCS and Pinetown/ DCS. The proposed workshop will be the first phase of the implementation of the pilot project.

Judge Jappie articulates that whatever transpires in the court room will predict where the pillars will be during a court session. He enquires as to what the process will be used for. It will have to pass the test that it is fair to everybody.

Mr Boardman explains that the video link will be used only for remands. The number of inmates that need to be transported to court will be reduced drastically.

Mr Ntshangase proposes that when the workshop is run, that the apparatus be in place and utilized by all the stakeholders. The lines are still in place and had been tested for communication. However, the private communication line to make provision for communication between the legal fraternity and the Correctional Clients is still to be installed.

Mr Boardman remarks that he will liaise with Mr Ntshangase to hold the workshop.

Mr Ntshangase requests that a date be set as soon as possible.

Mr Laue mentions that the CPS system [Court Process System], a paperless court environment system, is presently implemented at Durban. The bulk of first appearances that attract appearances, are in the District Courts. He proposes that technology will need to be integrated with the CPS so that all role players can utilize both systems.

The electronic CPS system is at present not operative in the Durban Regional Courts, and this may pose to create problems, using both the systems.

Members from the following pillars should be invited to attend the Video Linkage Workshop:

- Ø Law Society
- Ø Court Support Services
- Ø SAPS
- Ø Judiciary
- Ø Prosecution
- Ø Correctional Services
- Ø Society of Advocates
- Ø The Bar
- Ø Durban Justice Centre
- Ø Members from Court Services, National Office, that tested the apparatus for Mr Jiyane

Mr Boardman requests Mrs van Rooyen to distribute the other related documents timeously before the workshop.

It is decided that the workshop and testing of the apparatus take place on 13 October 2004 at Pinetown Magistrates Court at 09:00.

Mr Badal enquires about preparation for the workshop. The information will be available in the document to be distributed.

5.5 DEDICATED LEGAL-AID COURTS

Originally the project started off at the Regional Court, Durban with 4 dedicated legal aid courts. This has now expanded to 8 dedicated legal aid courts. It is working well and the influence in the trial courts is positive.

Mr Badal mentions that the same project has since been implemented in the District Courts. The finalization rate of cases in the Regional Courts has definitely improved.

Mr Sibeko enquires as to what will happen during December 2004, [period 17 December 2004 – 4 January 2005], as the Justice Centre is closing on 17 December 2004. Contract Magistrates will be available, and there will thus not be a need to close courts.

Mr Badal articulates that this will be problematic, as Justice Centre is obliged to close for various reasons. Skeleton staff will be available.

Ms Batohi requests that definite arrangements be made, so that Prosecutors will be made available. However, she is of the opinion that Justice Centre will have to make available capable staff, as crime tends to increase over the Christmas Season.

Mr Mabaso proposes that the stakeholders meet to discuss the matter and Ms Batohi suggested that the key role players meet directly after the meeting.

Mr Ntshangase comments on the late arrival of the Prisoners at Court.

Mrs van Rooyen enquires about repairs to the big truck used to transport the Correctional Clients from the Correctional Centre to Court and back. The truck has been broken down for ±2 months, resulting in prisoners arrive an hour later than the time that they usually arrive when they are transported in the big truck. Mr Ntshangase mentioned that a form was introduced to establish responsibility for late arrival of Prisoners.

Ms Batohi suggests that this forum should clarify the issue about the repairs to the truck. Mr Beavon of SAPS is not aware of the problem, but will find out and report back to Ms Batohi.

Mr Badal suggests that, if funds are the problem, Business Against Crime can be approached to assist in the interim.

5.6 TARGETED PROSECUTIONS

The SAPS Area Commissioners and SAPS members are to attend the Chief Prosecutors meeting on 21 October 2004. They are to present a plan of action as to how they intend to address the "Drug Lords"- issue. This may be a confidential

document and not for distribution, but they may meet with the Chief Magistrates to update them with the latest developments around this important issue.

5.7 IJS STRUCTURE

Ms Odayan is again not present. Ms Batohi expresses her concern with the Ms Odayan's absence, as Ms Odayan was tasked to accumulate all IJS statistics.

Judge Jappie agrees that the information is important, in particular for other provinces, where Case Flow Management processes are not working well as yet.

Mr Laue suggests that this matter be taken up with National Office.

Ms Matthews mentions that Ms Odayan had withdrawn with effect from June 2004.

Mr Boardman reports that 46 IJS centres had been established countrywide. The structure was to be formalized and a request was lodge for an investigation in order to ascertain as to which role players should become involved. They are presently looking into the aligning of all the IJS forums to achieve greater gain. Video Pre-Trial Services and all such projects will fall under Case Flow Management.

Ms Batohi mentions that Business Against Crime contracted Ms Odayan and she will find out what is in place to replace Ms Odayan, to collate information from all IJS courts, so that this meeting can take informed decisions based on the said information.

Mr Boardman mentions that the funding of Business Against Crime collapsed at the end of May 2004 and he is now with court support services to do monthly and quarterly reports of the IJS courts. He will be able to provide the required information as he analyses all IJS court statistics. He can give feedback on the performance of all IJS courts and will take the matter up with his Management.

5.8 OVERCROWDING OF PRISONS

Judge Jappie mentions that Judge Fagans' report indicates that the overcrowding of prisons is a result of:

- Ø Bail that could not be paid and
- Ø Constant remands.

Ms Batohi suggests that prisoners, in respect of whom Bail under R 1 000 had been set, are to be considered for release. Unfortunately Magistrates set bail in the amount of just over R 1 000. Judiciary are to be sensitised with the real problems in prison with overcrowding as well as the financial implication. The new Correctional Services Act stipulates conditions under which prisoners are to be kept in prison. We will never be able to abide and this will lead to Constitutional Claims. She requests the forum to look at the issue of overcrowding collectively.

Mr Laue proposes that in view of changing attitudes i.e. investigate and then arrest, accused appear in custody should remain in custody, unless evidence is provided to prove the contrary. Where non-serious offences are concerned, a culture is to be developed that to detain such a person should be the exception and motivation should be given to request for the detaining of such an offender.

Judge Jappie points out that complainants expect that perpetrators should be arrested and removed from the community. The release of such perpetrators does not go down easily.

It will depend on the Judiciary in particular to assess the situation and these tasks are often given to new magistrates to make decisions as to the detaining of accused in custody.

Mr Mabaso articulates that to decide on the detention of an accused or the release back into the community, is a complex issue.

Ms Batohi admits that they are sensitising prosecutors re the release of prisoners. They have discussed the issue about arrest and then investigate with SAPS. Prosecutors will throw such matters out if not properly grounded.

Ms Batohi requested Correctional Services to do a presentation at a PIJF meeting.

Judge Jappie suggests that an administrative body be established to look at number of people in custody and reason for detention, i.e. street kids. It may be necessary to approach city council to establish shelters. A suitable suggestion and administrative action can be made at Provincial level by all role players.

Mr Ngcobo mentions that some prisons refuse to accept remanded prisoners as a result of overcrowding. The situation has become explosive.

Mr Ntshangase agrees that an administrative body can fast track people in custody. The provision of more prisons may become of extreme importance.

The norm on which Correctional Services base and measure capacity to determine if there is a need to build more prisons may be outdated.

Mr Badal mentions that since 01 September 2004 Justice Centres sends attorneys to prisons to consult with prisoners. So far they have seen over 300 prisoners. The effects of this venture may become noticeable in the near future.

Mr Boardman comments on the dedication in KZN, in particular where Section 63A is concerned. He articulates that perhaps the category offence should be borne in mind if overcrowding is addressed.

Judge Jappie agrees that juveniles in prison can perhaps be dealt with by incorporating social welfare services opposed to that of attorneys. He echoes Mr Boardman's view of the happenings in KZN.

5.9 AWAITING TRIAL

Mrs O' Gorman could not attend today. She apologised and requested for matters to stand over to the next meeting.

Ms Batohi comments on the absence of Social Welfare at this meeting and suggest that we should endeavour for their attendance. The prison statistics seem high in respect of juveniles, as other institutes are not available for detention.

Miss Matthews suggests that Parliament be requested to instruct for their attendance.

6. COMMUNITY COURTS

POINT COMMUNITY COURT

The business plan for the establishment of the Point Community Court has been completed and sent to Pieter Du Randt at National Office for approval by the Minister.

Two park homes, furniture and equipment are in the process of being made available.

The Municipality supports the establishment of the Community Court. It will be a District Court and should be sitting over weekends to deal with petty offence to be really effective. Petty matters are at present being withdrawn. This will have a huge

financial impact. Members of the Municipality are keen to prosecute minor offences if proper delegation is given to them. All stakeholders are requested to apply their minds on how the Community Court should operate to be really effective, even if we need to do things differently.

Mr Mabaso articulates that recommendations have been made to the Department for funds. The Community Court at Ntuzuma is problematic and needs to be proclaimed. Mr Mabaso requests for a check on the proclamation of the Amanzimtoti and Wentworth Branch Courts.

Furniture:

Mr Sibeko agrees that sponsors will make electricity and water available in the park homes. Prosecutors will be made available to Prosecute in the Community Courts.

Mr Sibeko says that Magistrate Durban will man the Community Courts from 08:00 to 16:00, whereas the municipality will man the Courts from 16:00 – to 12:00 midnight.

Mr Mabaso mentions that written confirmation from the Department is required. Ms Zwane says that Mr Ngubane has sent a letter.

Ms Batohi indicates that she received a request from the press relating to a press release with regard to the establishment of Community Courts. Ms Batohi has prepared a press release from the Business Plan, which is to be signed off by all stake holders to be forwarded to the press, indicating the names of all the stake holders involved.

Miss Zwane articulates that Mr du Randt made it clear that no funds will be made available during the current financial year.

Ms Batohi comments that we should not allow this to stop us. We should look at the business community for assistance.

Mr Sibeko pointed out that sponsors will make water and electricity available in the park homes. Prosecutors will be made available to man the Community Courts from 08:00 to 16:00; The Municipality will man the courts from 16:00 to 24:00.

Mr Mabaso mentions that written confirmation will be required from the Department. Miss Zwane confirms that Mr Ngubane had sent a letter to this effect.

Ms Batohi indicates that she had received a request from the press relating to the establishment of the Community Courts. They required details for a press release. Ms Batohi had prepared a press release from the business plan, which was to be signed off by all stakeholders, whose names were also to be forwarded to the press.

7 CASEFLOW MANAGEMENT WORKSHOP: FEEDBACK FROM WORKSHOP

Ms Matthews reports that the workshop was held, where after a report was compiled and forwarded to National Office.

Mr Sibeko commends the Regional Court President for urging some Regional Court Magistrates to attend the workshop.

Ms Batohi requests feedback to decide on way forward.

Mr Mabaso reports that he, Mr Laue and Mr Sibeko attended a follow up workshop at Burgers park Hotel, Pretoria. Mr Mabaso chaired the Workshop. The KZN Case Flow management document was not initially taken as the founding document, but at the end it formed ±80% of the amended document.

The document is at present circulated for comments, as the meeting was representative, but not conclusive.

Ms Batohi mentions that Ray Samson was invited by Mr Henning to do a presentation of the document at a meeting in Bloemfontein. The Prosecution will look at the document extensively.

Mr Laue comments on Section 57A of the CPA : Implications of the Firearms and Ammunition Act is discussed. People were paying Admission of Guilt fines, but no enquiry was held. Hence a framework was put into the Case Flow Management document, to take care of this problem area. The determination of Admission of Guilt has been revoked pending the DPP's resolution on this regard.

Mr Sibeko relates that Ray Sansom is collating the views of all DPP's in this regard.

10.1 NEW STRATEGY FOR PROSECUTION: 2004

Ms Batohi mentions that the core function of Prosecutors is to go to court. The treatment of public is also now an objective.

The Service Charter sets out what Prosecutors are committed to of how to treat the public. Staff members are to adhere to the Service Charter and will be assessed on this issue.

The co-operation with partners in the system is to be improved, i.e. to participate in meetings and provide training. If parties are interested in training issues, they can contact Miss Blumerick at Ms Batohi's office.

The intention is to contribute to the reduction in crime in co-operation with SAPS, i.e. Drug law, specialised courts set up, etc.

Criminal asset forfeiture in lower courts to be utilized more frequently.

Mr Laue responds that Magistrates can benefit by proposing that Judiciary may exchange and participate in Ms Batohi's suggestions with regard to Criminal Asset forfeiture. Magistrates may be called upon to respond to a document to be compiled to deal with these applications, to which they may be called to apply their minds to. It may be an idea to request Justice College to become pro active in this instance.

10.3 IMPLEMENTATION OF CASE FLOW MANAGEMENT

Mr Sibeko explains that the Judiciary heads Case Flow Management. It is thus the responsibility of the Judiciary to call Case Flow Management meetings. In the Pinetown cluster this is not happening. In the Ladysmith cluster it has been implemented, but not at Newcastle. In the Ladysmith cluster at Regional Court level it has only been implemented at Vryheid.

At Pietermaritzburg Case Flow Management is coming up, but it is cluster driven. At Empangeni cluster, no clustered meetings are being held. The implementation of Case Flow Management is on the increase. There are problems experienced with the implementation of the prescribed documents. Structured meetings of all stakeholders at cluster or office level chaired by the Judiciary should be held.

It is the responsibility of the Judiciary to call meetings. Judge Jappie suggests that Head of Judiciary of clusters/offices not complying should be contacted and made aware of these provisions.

Mr Sibeko states that Prosecutors are ready to proceed, but they cannot prescribe to the Magistrates.

Mr Ntshangase agrees that the Judiciary should convene the meetings, but pro-activeness is required and nothing is stopping the Prosecution of probing for meetings to be held and all stakeholders should feel free to call for a meeting. He takes consonance of areas where the flame of Case Flow Management needs to be ignited.

Mr Sibeko agrees, but, using Durban as example, articulates that Mrs van Rooyen, Acting Registrar calls the monthly Case Flow Management meetings, but on request of the Judiciary. A certain person should take responsibility.

Judge Jappie suggests that Mr Ntshangase sensitises the parties concerned at Empangeni and Newcastle to become pro-active in calling the monthly Case Flow Management meetings.

Mr Mabaso also undertakes to request minutes of meetings, as this will be indicative of proceedings at the various offices.

Ms Batohi agrees and suggests that Mr Ngcobo of Pietermaritzburg cluster follow suite. They are enthusiastic about Case Flow Management and are willing to assist and even to call meetings, but only if tasked to do so by the authorities.

A report back on the implementation of Case Flow Management at all the offices will be expected at the next meeting.

Mr Badal mentions that Justice Centres are available at Ladysmith and Newcastle.

NEW MATTERS

6 FINALISATION RATES OF ALL REGIONAL COURTS

Ms Batohi said that they have looked at conviction rates of matters in Regional Courts. In some courts it is as low as 13%. There are certain visible trends, whereas in other courts in the very same office it may be as high as 60%. She will prepare a full presentation for the next PIJF meeting.

Mr Ntshangase agrees that it is important, but factors impact on acquittals i.e. poor presentation of matters. Appeal results will indicate on convictions set aside. The court is there to search for truth. Yet judiciary should guard against acquittal in matters where a conviction could be granted. The optimal utilization of court hours should be strived for. A meeting has been called for on 15 October 2004 to address these issues with the regional Court Magistrates. A court monitoring form is

completed that indicates exact time court commenced and adjourned. The usage of these forms are essential and helpful to Mr Ntshangase in monitoring the optimal utilization of court hours and conviction rates.

Ms Batohi requests that, in matters where prosecutors did not present their cases properly, the Chief Prosecutors be made aware by the Presiding Officer.

7 CAPACITY AND INFRASTRUCTURE REQUIRED TO IMPLEMENT LEGISLATION

Ms Blumrick is concerned with the New Child Justice Bill. There is a large number of children under the age of 18 appearing, that will be effected by the Bill, but insufficient infrastructure to do the work. The legislation will come into operation without infrastructure provided. We cannot rely on probation officers at Magistrate Durban and Pietermaritzburg to assist. Furthermore, there is a lack of facilities to detain these juveniles.

In the absence of Social Welfare at the forum today, this matter cannot be furthered. Mr Ntshangase undertakes to request Mr Mhlongo to attend the following meeting.

8 SAPS LIAISON OFFICES IJS COURTS

Ms Batohi indicates that some IJS offices in KZN are finding difficulties, as SAPS liaison officers are not available at all these offices. Ms Batohi will provide a list to Mr Beavon.

9 CASE FLOW MANAGEMENT AND ADMISSION OF GUILT

Dealt with

10 COMMUNITY COURTS

Done.

Ms Batohi requests stake holders to read press release and comment to Mrs Blumrick at:

(tel) 033 392 8700

082 771 5503 (fax) 033 392 8722.

11 TARGETED PROSECUTION

Dealt with.

12 DNA TESTS (LOCAL LAB FOR BLOOD TESTS)

Mr Beavon mentions that a Lab has been approved in principal for KZN. He will report back.

Mr Boardman mentions that Prosecutors can contact a help line where prosecutors countrywide can enquire as to progress with blood tests.

13.1 GENERAL

Change of name from PIJS to PIJF

The PIJS Forum will in future be called the PIJF.

13.2 MEMORANDUM ON THE LIQUOR ACT

Mr Laue mentions that as a result of the repeal of the Liquor Act and the 2003 replacement Liquor Act, during the transition phase, there are certain areas of uncertainty and Provincial Legislation will have to provide guidance. He had prepared a memorandum to assist.

13.3 WEBSITE

Mrs Matthews articulates that the Case Flow Management document is now on website and can be downloaded and includes the following:

- Ø Background of PIJF
- Ø Minutes of PIJM
- Ø PIJF contact list
- Ø Resources
- Ø Links to various home pages of the Department

Mrs Matthews will host the document from their own website in the interim. To liaise with Mr Laue, Mrs van Rooyen and Mr Sansom in this regard.

13.4 IMBISO MEETING

Ms Batohi reports back on the Imbiso meeting held at the ICC Durban on 30 September 2004. This was the first meeting of its kind. Plans were presented on dealing with various projects for the Durban Beach Front and the Durban CBD. Copies of the address will be circulated when available.

This is a huge step forward to deal with crime effectively in this province.

The next meeting will be held on 3 December 2004 at 10:00 at the Khaya Lembali, Conference Centre.

**JUDGE JAPPIE
CHAIRPERSON**

**P VAN ROOYEN
SECRETARY**